

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on March 28, 2001 at 10:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Bill Eggers (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Linda Holden (R)  
Rep. Joan Hurdle (D)  
Rep. Jeff Mangan (D)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Ken Peterson (R)  
Rep. Diane Rice (R)  
Rep. Bill Thomas (R)  
Rep. Merlin Wolery (R)  
Rep. Cindy Younkin (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None  
Executive Action: **SB 489 - BCIAA - 14-6**

**EXECUTIVE ACTION ON SB 489**

**Motion:** REP. ADAMS moved that SB 489 BE CONCURRED IN. #1

**Discussion:** Rep. Shockley said this Bill was carried by Sen. Grosfield and ties into some of the things they have been doing to the Xanthopoulos Building. If SB 207 doesn't go to third reading before Friday, the Xanthopoulos Building will go to the County of Deer Lodge for \$1 dollar. It was envisioned by the Department the Xanthopoulos Building would be used for some long term treatment for DUI 4 and more. There will be a six month program called "therapeutic community". People who go there aren't really dangerous to the public, if they are not drinking and driving. There are people with 4<sup>th</sup> DUIs who simply won't qualify for the "X" Building because they have some other offenses. The people who go there would be low-risk people and they will be submerged in the program.

**Motion:** REP. SHOCKLEY moved that SB 489 BE AMENDED. #2  
**EXHIBIT** (juh70a01)

**Discussion:** Reps. Eggers, Gutsche, Gallus, Hurdle, Shockley, Noennig

*{Tape : 1; Side : A; Approx. Time Counter : 0 - 17.0}*

Mr. MacMaster explained the Amendments, EXHIBIT 1.

*{Tape : 1; Side : A; Approx. Time Counter : 17 - 27.1}*

**Discussion:** Reps. Mangan, Gutsche, Younkin for further explanation of amendments.

*{Tape : 1; Side : A; Approx. Time Counter : 27.1 - 29.7}*

**Discussion:** Mr. MacMaster answered questions from Committee.

Reps. Shockley, Newman, Younkin, Noennig, Rice, Gutsche, Clark, Hurdle, Gallus, Peterson, Newman for clarification and explanation.

*{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 29.7}*

*{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 5.9}*

**Motion:** REP. CLARK moved that SB 489 BE AMENDED to qualify after the 3<sup>rd</sup> DUI rather of the 4<sup>th</sup> DUI. #2

Discussion: Rep. Gallus to Mr. MacMaster and without objection, Joe Williams, Department of Corrections for clarification. Rep. Gallus asked Mr. Williams how many one-time offenses there were last year? Mr. Williams said they had 292 convictions involving 274 different felonies. Rep. Gallus asked how many third offense misdemeanors there were? Mr. Williams said almost 1200. Rep. Gallus asked if there would be capacity for a program that includes a third offense? Mr. Williams said no, not in the Xanthopoulos Building. Rep. Gallus said he is not opposed to Rep. Clark's idea but he does have some concerns about capacity.

Rep. Shockley said he thinks, at this late date, it is too late to turn this into a DUI 3 Bill. It has a large fiscal impact and there are not enough facilities available to handle the people.

Reps. Thomas, Mangan, Curtiss.

REP. CLARK withdrew his motion to amend SB 489.

Motion: REP. HARRIS moved that SB 489 BE AMENDED for 30 days actual hard time. #3

Discussion: Reps. Gallus, Harris to Bill Slaughter, Director, Department of Corrections.

Rep. Harris withdrew his motion to amend SB 489.

Vote: Shockley amendment carried 19-1 with Rep. Newman voting no.

Motion/Vote: REP. SHOCKLEY moved that SB 489 AS AMENDED be sent to House Appropriations. #4 Motion carried 16-4 with Reps. Laszloffy, Hurdle, Newman and Rice voting no.

Mr. MacMaster said he did not think the Committee could refer a Bill to another Committee. Only the House can. A Committee shall act on each Bill in its possession. First, if a Bill comes into the Committee you have to act on it, it can't sit there. Only the whole House, by a motion on the floor, can refer a Bill to another committee.

Motion/Vote: REP. GALLUS moved that SB 489 BE CONCURRED IN AS AMENDED with the recommendation that it be referred to another committee, the Appropriations Committee. #5 Motion carried 14-6 with Reps. Laszloffy, Clark, Harris, Hurdle, Newman, and Rice voting no.

*{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 5}*

**Discussion:** Rep. Noennig explained that SB 1 is the blacklisting employment reference Bill. He spent a lot of time working with John Sullivan who is the attorney that was working with this, trying to satisfy all the concerns that were raised and to come up with a much better Bill to do what was intended. He thinks he has done that and would like the Committee to have the opportunity to study what has been done.

**Motion/Vote:** REP. NOENNIG moved that SB 1 BE TAKEN OFF THE TABLE. #6. Motion failed 7-10 with Reps. Clark, Curtiss, Eggers, Gallus, Gutsche, Harris, Hurdle, Mangan, Newman and Peterson voting no.

*{Tape : 2; Side : B; Approx. Time Counter : 5 - 6.6}*

**ADJOURNMENT**

Adjournment: 11:30 A.M.

---

REP. JIM SHOCKLEY, Chairman

---

MARY LOU SCHMITZ, Secretary

JS/MS

**EXHIBIT** (juh70aad)